

L. A. WALSTROM, JR.

IBLA 78-434

Decided September 5, 1978

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer. NM-A 33191 (Okla.).

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Lands Subject to

Where land was previously included in an oil and gas lease and thereafter listed for the simultaneous filing of offers pursuant to 43 CFR 3112, and two offers were filed, both of which were rejected, the land is not thereafter open to the filing of over-the-counter offers to lease, but must again be posted for simultaneous filing.

APPEARANCES: L. A. Walstrom, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

L. A. Walstrom, Jr., has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated May 8, 1978, which rejected his noncompetitive oil and gas lease offer NM-A 33191 (Okla.).

Appellant filed his over-the-counter lease offer April 8, 1978, for 160 acres described as the SE 1/4 sec. 26, T. 6 N., R. 22 W., Indian meridian, Greer County, Oklahoma. The record shows that this tract had formerly been included in expired oil and gas lease NM-A 038926. The lands were first posted on the list of lands available for oil and gas filings on September 18, 1972, as parcel 87. Two filings were received for this tract, but the offers were ultimately rejected and case NMA 17257 was closed on the record February 1, 1973. Subsequently, the lands were not relisted for filing prior to appellant's application. Upon receipt of Walstrom's offer the State Office

noted that since a lease of these lands had never materialized, the regulations in 43 CFR 3112.5-1 require that the lands be included in a subsequent list of lands available for filing under the simultaneous drawing procedure.

Appellant contends that since a lease did not materialize from the simultaneous procedure of 1972, the lands are now "open and available for lease on a non-competitive first come, first serve basis."

The State Office decision was correct. In view of the sequence of events, the 160 acres in issue were not available to over-the-counter offers when Walstrom filed offer NM-A 33191 (Okla.).

[1] Departmental regulations provide that land formerly under oil and gas lease must be posted under the simultaneous filing procedures set out in 43 CFR 3112, and only if no simultaneous filings are received does the land become available to over-the-counter filings. When the land was posted as Parcel 87 in the September 1972 drawing, drawing entry cards were received, so that if none of the cards drawn matured into an oil and gas lease, the lands would have to be reposted on a later simultaneous list. 43 CFR 3112.1-1(b). The lands in this case were clearly never reposted for a later simultaneous drawing. For that reason, Walstrom's offer could not be accepted. David A. Provinse, 33 IBLA 312, 314 (1978). A noncompetitive oil and gas lease offer is properly rejected where the land which is the subject of such offer has not yet been posted as available as prescribed by 43 CFR subpart 3112. David A. Provinse, supra; Jack E. Griffin, 7 IBLA 155 (1972).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Joan B. Thompson
Administrative Judge

